

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

October 30, 2012

Opinion No. 12-100

Notice Required for Extension of Contracts for Director of Schools

QUESTIONS

1. Can a school board legally extend a contract of a director of schools without giving the notice required by Tenn. Code Ann. § 49-2-203?
2. If not, would the extension of a contract with a director of schools that was made without the proper notice required by Tenn. Code Ann. § 49-2-203 be valid?

OPINIONS

1. No.
2. An extension of a director of schools' contract made without the proper notice required by Tenn. Code Ann. § 49-2-203 would be invalid.

ANALYSIS

This Office in two prior opinions has addressed the appropriate process whereby a local school board can extend the contract for a directors of schools. In Tenn. Att'y Gen. Op. 01-102 (June 22, 2001), this Office was asked whether a director of schools' contract could be extended during the contract term. As Tenn. Code Ann. § 49-2-203 did not provide such authority at that time, this Office opined that a director of schools' contract could not be extended during the contract term.

Subsequently in Tenn. Att'y Gen. Op. 12-69 (July 6, 2012), this Office opined that a director of schools' contract could be extended during the contract term because Tenn. Code Ann. § 49-2-203 had been amended to authorize this action under the following provision:

No school board shall extend the contract of a director of schools without giving notice of the intent to do so at least fifteen (15) calendar days prior to the scheduled meeting at which action shall be taken. . . . Notice of extension . . . of a contract of a director of schools shall include the date, time and place of the meeting, and shall comport with all other requirements of §§ 8-44-103 and 49-2-

202(c)(1). The proposed action shall be published as a specific, clearly stated item on the agenda for the meeting. Such item, for the convenience of the public attending the meeting, shall be the first item on the agenda.

Tenn. Code Ann. § 49-2-203(a)(14)(C).

1. The inquiry posed by this opinion request is whether any other provision of Tennessee law would permit a school board to extend a contract of a director of schools without giving the notice required by Tenn. Code Ann. § 49-2-203. No such law exists, and indeed the specific provisions of Tenn. Code Ann. § 49-2-203 require such notice. *See Wlodarz v. State*, 361 S.W.3d 490, 496 (Tenn. 2012) (stating the general rule that, when a statute is clear, a court will apply its plain meaning “without complicating the task”).

2. Any extension granted without the notice required by Tenn. Code Ann. § 49-2-203 would be invalid. Local governing bodies have only such power as is granted by statute, and any action which is not authorized by statute is a nullity. *See Allmand v Pavletic*, 292 S.W.3d 618, 625-27 (Tenn. 2009); *General Portland, Inc. v. Chattanooga-Hamilton Cty. Air Pollution Control Bd.*, 560 S.W.2d 910, 913 (Tenn. Ct. App. 1976).

ROBERT E. COOPER, JR.
Attorney General and Reporter

WILLIAM E. YOUNG
Solicitor General

MELISSA A. BRODHAG
Assistant Attorney General

Requested by:

The Honorable G. A. Hardaway
State Representative
22 Legislative Plaza
Nashville, TN 37243